



Substitute Senate Bill No. 232

Public Act No. 06-144

***AN ACT CONCERNING TELECOMMUNICATIONS COMPETITION
AND PROMOTING BROADBAND INTERNET COMPETITION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 16-247f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(a) The department shall regulate the provision of telecommunications services in the state in a manner designed to foster competition and protect the public interest.

(b) Notwithstanding the provisions of section 16-19, [a telecommunications service] the following telecommunications services shall be deemed competitive services: (1) A telecommunications service offered on or before July 1, 1994, by a certified telecommunications provider and a wide area telephone service, "800" service, centrex service or digital centrex service offered by a telephone company, [shall be deemed a competitive service. Any] (2) a telecommunications service offered to business customers by a telephone company, (3) a home office service offered by a telephone company, and (4) a telecommunications service provided by a telephone company to a residential customer who subscribes to two or more telephone company services, including basic local exchange

Substitute Senate Bill No. 232

service, any vertical feature or interstate toll provided by a telephone company affiliate. Unless reclassified pursuant to this section, any other service offered by a telephone company on or before July 1, 1994, shall be deemed a noncompetitive service, provided such initial classification shall not be a factual finding that such service is noncompetitive. Notwithstanding subdivision (3) of subsection (c) of section 16-247b, prior to January 1, 2010, a telephone company shall not obtain a waiver from the department of the pricing standard set forth in subdivision (1) of subsection (c) of section 16-247b for any service reclassified as competitive pursuant to subdivision (2), (3) or (4) of this subsection.

(c) On petition, on its own motion, or in conjunction with a tariff investigation conducted pursuant to subsection (f) of this section, after notice and hearing, and within ninety days of receipt of a petition or its motion or within the time period set forth in subsection (f) of this section, as applicable, the department may reclassify a telecommunications service as competitive, emerging competitive or noncompetitive, in accordance with the degree of competition which exists for that service in the marketplace, provided (1) a competitive service shall not be reclassified as an emerging competitive service and (2) the department may extend the period (A) before the end of the ninety-day period and upon notifying all parties to the proceedings by thirty days, or (B) in accordance with the provisions of subsection (f) of this section, as applicable.

(d) In determining whether to reclassify a telecommunications service, the department shall consider:

(1) The number, size and geographic distribution of certified telecommunications providers of the service, provided the department shall not reclassify any service as competitive if such service is available only from a telephone company or an affiliate of a telephone company that is a certified telecommunications provider;

Substitute Senate Bill No. 232

(2) The availability of functionally equivalent services in the relevant geographic area at competitive rates, terms and conditions, including, but not limited to, services offered by certified telecommunications providers, providers of commercial mobile radio services, as defined in 47 CFR 20.3, voice over Internet protocol providers and other services provided by means of alternative technologies;

[(3) The financial viability of each company providing a functionally equivalent service in the relevant market;]

[(4)] (3) The existence of barriers to entry into, or exit from, the relevant market;

[(5) Other indicators of market power which the department deems relevant, which may include, but not be limited to, market penetration and the extent to which the provider of the service can sustain the price for the service above the cost to the company of providing that service;

(6) The extent to which other telecommunications companies must rely upon the service to provide their telecommunications services;]

[(7)] (4) Other factors that may affect competition; and

[(8)] (5) Other factors that may affect the public interest.

(e) Each certified telecommunications provider and each telephone company shall file with the department a new or amended tariff for each competitive or emerging competitive intrastate telecommunications service authorized pursuant to section 16-247c. A tariff for a competitive service shall be effective on five days' written notice to the department. A tariff for an emerging competitive service shall be effective on twenty-one days' written notice to the department. A tariff filing for a competitive or emerging competitive service shall

Substitute Senate Bill No. 232

include (1) rates and charges which may consist of a maximum rate and a minimum rate, (2) applicable terms and conditions, (3) a statement of how the tariff will benefit the public interest, and (4) any additional information required by the department. A telephone company filing a tariff pursuant to this section shall include in said tariff filing the information set forth in subdivisions (1) to (4), inclusive, of this subsection, a complete explanation of how the company is complying with the provisions of section 16-247b and, in a tariff filing which declares a new service to be competitive or emerging competitive, a statement addressing the considerations set forth in subsection (d) of this section. If the department approves a tariff which consists of a minimum rate and a maximum rate, the certified telecommunications provider or telephone company may amend its rates upon five days' written notice to the department and any notice to customers which the department may require, provided the amended rates are not greater than the approved maximum rate and not less than the approved minimum rate. A promotional offering for a previously approved competitive or emerging competitive tariffed service or a service deemed competitive pursuant to [section 16-247f] this section shall be effective on three business days' written notice to the department.

(f) On petition or its own motion, the department may investigate a tariff or any portion of a tariff, which investigation may include a hearing. The department may suspend a tariff or any portion of a tariff during such investigation. The investigation may include, but is not limited to, an inquiry to determine whether the tariff is predatory, deceptive, anticompetitive or violates the pricing standard set forth in subdivision (1) of subsection (c) of section 16-247b. Not later than seventy-five days after the effective date of the tariff, unless the party filing the tariff, all statutory parties to the proceeding and the department agree to a specific extension of time, the department shall issue its decision, including whether to approve, modify or deny the

Substitute Senate Bill No. 232

tariff. If the department determines that a tariff filed as a new service is, in fact, a reclassification of an existing service, the department shall review the tariff filing as a petition for reclassification in accordance with the provisions of subsection (c) of this section.

(g) The provisions of this section shall not prohibit the department from ordering different tariff filing procedures or effective dates for an emerging competitive service, pursuant to a plan for an alternative form of regulation of a telephone company approved by the department in accordance with the provisions of section 16-247k.

Sec. 2. Section 16-247i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(a) Not later than January 1, [1995] 2007, and annually thereafter, the department shall submit a report to the [General Assembly] joint standing committee of the General Assembly having cognizance of matters relating to energy and technology on the status of telecommunications service and regulation in the state of Connecticut. Such report shall include: (1) An analysis of universal service and any changes therein; (2) an analysis of the impact, if any, of competition in telecommunications markets on the work force of the state and employment opportunities in the telecommunications industry in the state; (3) an analysis of the level of regulation which the public interest requires; (4) the status of implementing the provisions of sections 16-247a to 16-247c, inclusive, 16-247e to 16-247h, inclusive, 16-247k and this section, including achieving each of the objectives of the goals set forth in section 16-247a; (5) the status of the development of competition for all telecommunications services; [and] (6) the status of the deployment of telecommunications infrastructure in the state; and (7) the status of the implementation of sections 16-247f and 16-247i of the general statutes, as amended by this act, and section 3 of this act.

(b) In compiling the information for this report, the department

Substitute Senate Bill No. 232

shall require, among other things, each telephone company to provide to the department annually: (1) Its aggregate number of telephone access lines in service, not including resold lines or other wholesale lines; (2) the annual change in such telephone company's access lines over the preceding five years; (3) the number of active wholesale customers served by the telephone company; (4) the nature of the wholesale services provided; (5) the number of wholesale service requests; (6) the impact of competition on the work force of the telephone company; (7) a general discussion of the state of the industry, industry trends, and competitive alternatives available in the market, including, but not limited to, technological changes affecting the market; (8) the number of competitive local exchange carriers; and (9) how long it takes the company to respond to a wholesale service request.

Sec. 3. (*Effective July 1, 2006*) In the event that the Federal Communications Commission grants AT&T Connecticut's Federal Communications Commission Emergency Petition, WC Docket No. 04-30, The Southern New England Telephone Company Petition for Declaratory Ruling and Order Preempting the Connecticut Department of Public Utility Control's Decision Directing the Southern New England Telephone Company to Unbundle its Hybrid Fiber Coaxial Facilities, then The Southern New England Telephone Company, or its successor entity shall entertain offers for one dollar, or the best offer it receives, for the purchase of the currently unused portions of its coaxial facilities that were previously part of the hybrid fiber coaxial network used by an affiliate to provide video service.

Approved June 6, 2006